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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/663,106

09/16/2003

Amos E. Cline

02-026

1814

24124

7590

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EXAMINER

CHORBAJI, MONZER R

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

08/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/663,106</p>	<p>Applicant(s) CLINE, AMOS E.</p>	
	<p>Examiner MONZER R. CHORBAJI</p>	<p>Art Unit 1797</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-14.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: _____.

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797

Continuation of 3. NOTE: Applicant has added the following new limitations that require further search and additional evaluation: independent claim 7 has been amended to include the new structure, "a conduit"; dependent claim 11 has been amended to include the new limitation, "one behind another along said flowpath"; independent method claim 14 has been amended to include the limitations, "a conduit", "in said expanded flow area, said oscillatory members being", "and said flow partition in a direction transverse to said two or more subdivided flowpaths", and "and rarefaction resulting from said turbulent flow". In addition, Applicant has added claims 15-19 that contain new limitations described in process subject matter.

Response to Arguments

On pages 6-7 of the Remarks/Arguments section, Applicants base their arguments on the teachings provided in paragraphs [0014 and 0047]. However, the paragraphs still do not teach that shear forces and compression forces are exerted on a total volume of the process fluid and the paragraphs do not teach exposing the total volume of the process fluid to acoustic energy. One of ordinary skill in the art would not recognize from the totality of the disclosure and from conventional knowledge that the energy is applied to the entire volume. In contrast, one of ordinary skill in the art would also recognize that energy is applied to a certain portion of the fluid as well and not the entire volume of the liquid.

On pages 8-10 of the Remarks/Arguments section, Applicant argues that it is not inherent in the structure of the Branson apparatus that the acoustic waves emanating from the ultrasound transducers travel in a direction transverse to the longitudinal axis; that Branson does not disclose a flow partition between the oscillatory members; that the acoustic energy in the Branson apparatus is not generated by the flow of the liquid itself in the tank; that the acoustic energy generated in the Branson tank does not work on the total volume of the liquid in the tank; and that Gaffiney and Branson do not teach using a tank circuit to fly-wheel energy between the oscillatory members.

Branson discloses piezoelectric members (figure 1:22) that are capable of generating acoustic waves traveling in a direction transverse to the longitudinal axis and the flow partitions (figure 2:15 and 17) do cause partition in the flow of the fluid that is flowing in through inlet 14 and out through exit 16 as shown in figure 1 where flow partitions 15 and 17 are between oscillatory members 22 (see figure 1). The oscillatory members 22 in Branson are capable of working on the total volume of the liquid in the tank. Applicant other arguments mentioned above relate to the newly added limitations, which have not been entered.